

FAIR HOUSING

INDIANA CIVIL RIGHTS COMMISSION



In Association with the Indiana Fair Housing Task Force (IFHTF)



What is Fair Housing?

Fair housing is based upon the premise that housing should be a free choice.

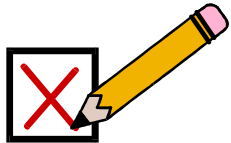
INDIANA FAIR HOUSING ACT



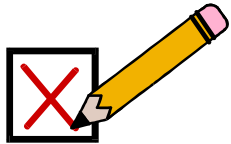
Passed by the Indiana General Assembly in 1991.



Prohibits illegal housing discrimination against seven protected classes.



Applies to virtually every area of a housing transaction.



Applies to both privately and publicly owned housing.

INDIANA CIVIL RIGHTS LAW

Ind. Code 22-9-1

- States that it is the public policy of the State to provide its citizens equal opportunity in the purchase or rental of property and housing.



INDIANA CIVIL RIGHTS LAW

(continued)

- **ALL PROPERTIES COVERED:**
 - **Commercial and residential property;**
 - **Regardless of number of units owned; and,**
 - **Includes all protected classes except familial status.**



I. FAIR HOUSING OVERVIEW

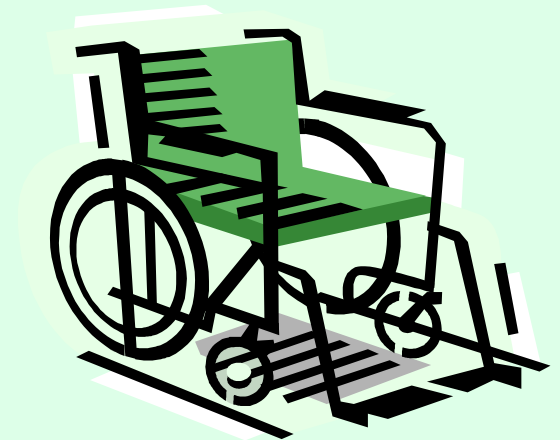
A. PROTECTED CLASSES

- RACE
- COLOR
- SEX
- RELIGION
- NATIONAL ORIGIN/
ANCESTRY
- DISABILITY
- FAMILIAL STATUS



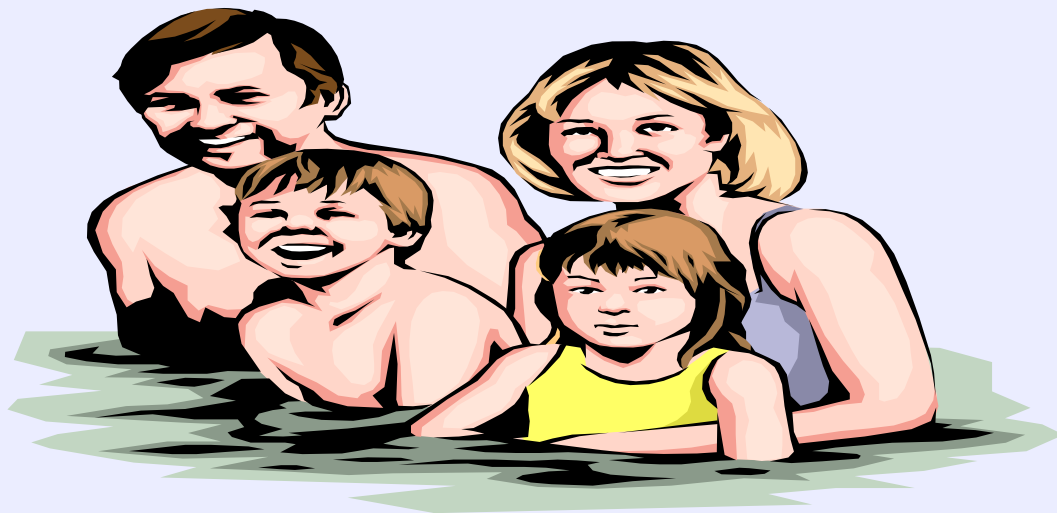
PROTECTED CLASSES (continued)

- **DISABILITY:**
 - Physical or mental impairment which substantially limits one or more of a person's major life activities;
 - Has a record of such impairment; or
 - Regarded as having such an impairment.



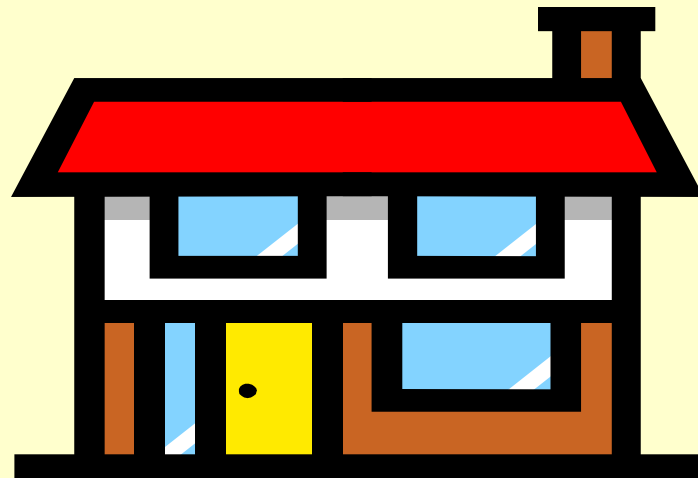
PROTECTED CLASSES (continued)

- **FAMILIAL STATUS:**
 - **Children under the age of 18 living with a person (adopted, natural, foster, pregnant, or in the process of adopting or attaining custody).**



B. DWELLINGS

- **ALL DWELLINGS ARE COVERED:**
 - **Any building or structure intended for occupancy by one or more families. Also includes vacant land intended for housing.**





DWELLINGS (continued)

- **EXEMPTIONS:**
 - The owner owns four (4) units or less and lives in one unit (unless they have made more than one sales or rental transactions within 24 months).
 - Strictly reserved for members of religious organization (may give preference to persons of same religion in non-commercial transaction).

DWELLINGS (continued)

- **Strictly reserved for members of a private club (may provide non-commercial lodging for members).**



DWELLINGS (continued)

- Housing for older persons (may exclude families with children):
 - Housing which is intended for and solely occupied by persons 62 years and older;
 - Housing which is intended for persons 55 and older that meet the following criteria:
 - 80% occupied by at least one person age 55 or older; and,
 - Provides services and facilities for older persons.



WHO CAN FILE A COMPLAINT?

➤ ANY AGGRIEVED PARTY CAN FILE A COMPLAINT

- An aggrieved party is anyone who can show that they have been injured by a discriminatory housing practice

➤ MAY INCLUDE:

- Fair Housing organizations
- Testers



EXAMPLES:

➤ **White tenants in a building that excluded minorities were aggrieved on the ground that the management of the housing project affected the very quality of their daily lives.**



EXAMPLES (continued)

➤ A non-live-in boyfriend was held to have standing pursuant to the Act because as a minority he was forced to discontinue his visits to his girlfriend's home.



C. PROHIBITED ACTIVITY

- **REFUSAL TO RENT/SELL;**
- **MISREPRESENTING AVAILABILITY;**
- **REFUSAL TO NEGOTIATE WITH A PERSON;**
- **IMPOSING DIFFERENT TERMS AND/OR CONDITIONS;**

PROHIBITED ACTIVITY (continued)

- **STEERING:**

- Discouraging prospective home buyers or tenants from selecting property because of the racial or ethnic composition of the neighborhood;

- **BLOCKBUSTING:**

- Pressuring individuals to sell their homes because members of a protected class are moving in to their neighborhood;

PROHIBITED ACTIVITY (continued)

- **REDLINING:**

- Denying or imposing different terms on mortgage loans or insurance coverage because of the ethnic make-up of the neighborhood in which the property is located;

- **UNREASONABLE OCCUPANCY LIMITATIONS:**

- Must be made upon reasonable spatial considerations as opposed to number of children;

PROHIBITED ACTIVITY (continued)

- **DISCRIMINATORY ADVERTISING;**
- **INTIMIDATION and/or INTERFERENCE;**
- **FINANCING DISCRIMINATION; and,**
- **REFUSAL TO PERMIT REASONABLE ACCOMMODATIONS OR MODIFICATIONS FOR PERSONS WITH DISABILITIES.**

PROHIBITED ACTIVITY (continued)

✓ ACCOMMODATIONS:

- Landlord must allow relaxation of rules, policies and procedures if necessary to allow enjoyment of the dwelling.

PROHIBITED ACTIVITY (continued)

✓ ACCOMMODATIONS EXAMPLES:

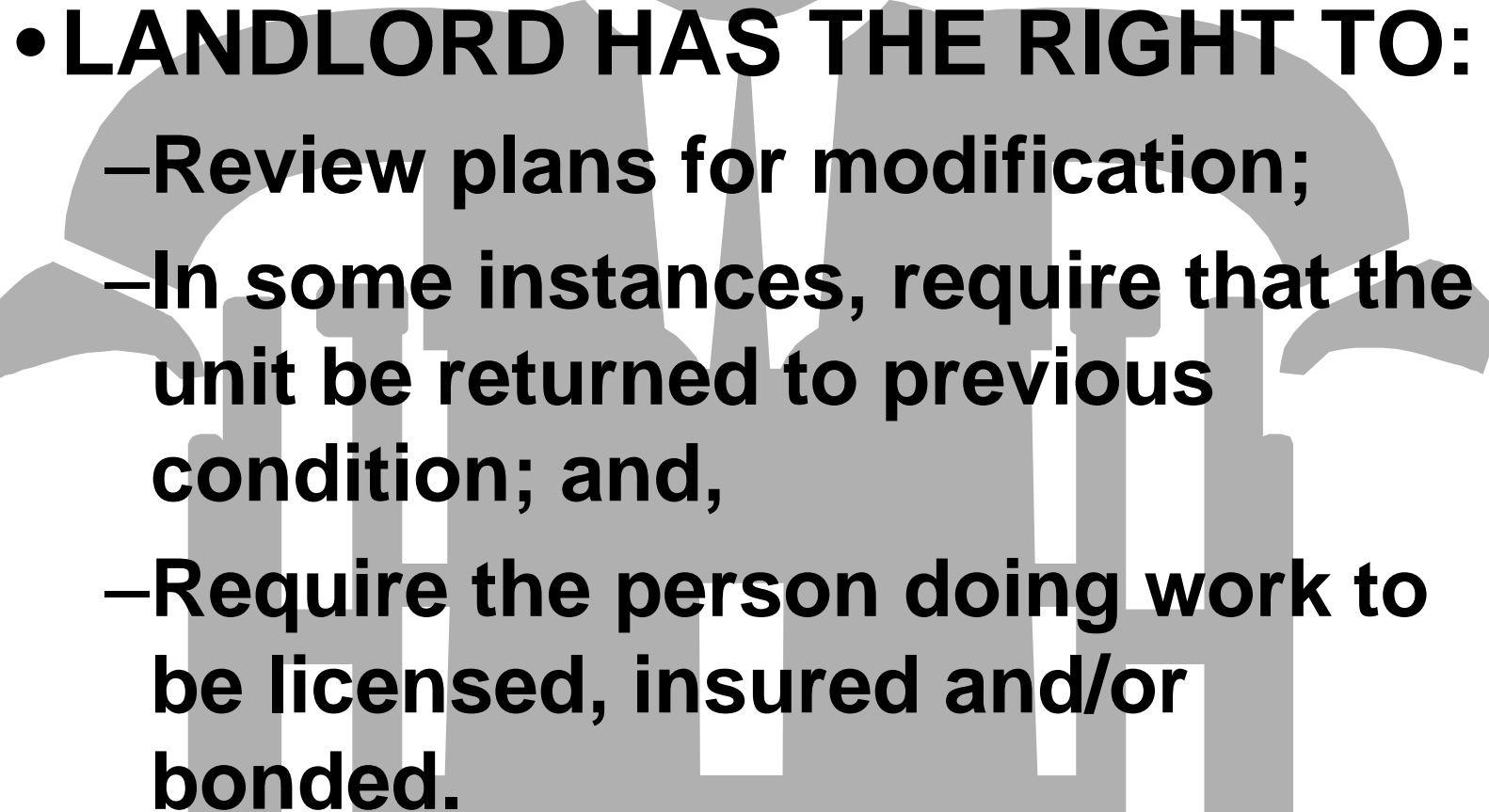
- Permitting service and companion animals in otherwise no pet communities.
- Providing an assigned handicap parking space in a community with unassigned tenant parking.
- Permitting required medical assistant to live in unit rent-free.





✓ **MODIFICATIONS:**

- **Landlord must allow reasonable modifications to structure of the unit if necessary to allow enjoyment of dwelling:**
 - **Widening doorway;**
 - **Installing ramps;**
 - **Installing grab bars;**
 - **Lowering countertops; and,**
 - **Removing carpet.**

- 
- **LANDLORD HAS THE RIGHT TO:**
 - Review plans for modification;
 - In some instances, require that the unit be returned to previous condition; and,
 - Require the person doing work to be licensed, insured and/or bonded.



✓ **ACCOMMODATIONS/MODIFICATIONS:**

- **Landlord may request verification of necessity for requested accommodations or modification;**
- **Landlord may not request information on tenants medical condition; and,**
- **Need not be made if causes undue burden or fundamental alteration.**

New Multi-Family Dwellings Built after

March 13, 1991

- **Requirements:**
 - **Non-elevator buildings must have accessible first floor units and elevator buildings must have all accessible units.**
 - **Accessible means:**
 - » **Accessible kitchens and baths.**
 - » **Reinforced walls in showers and bathtubs.**
 - » **Accessible climate controls, switches and outlets.**

D. ADVERTISING

✓ WAYS TO VIOLATE

- Expressed preference or limitation.
 - Words or symbols used in written or verbal communication:
 - » “adults only”
 - » “integrated community”
 - » “English speaking only”
- Implied preference or limitation.
 - Use of models:
 - » Depicting tenants of a community as all one race.
 - » Depicting tenants of a community as all adults.



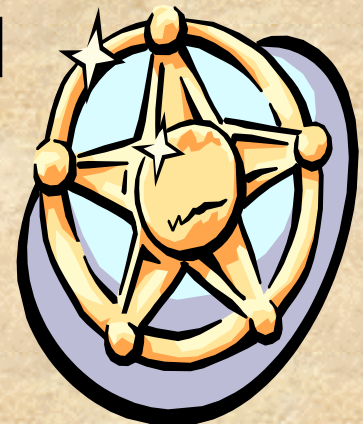
ADVERTISING (continued)

- **IMPLIED THROUGH USE OF MEDIA**
 - Placing all advertisements in newspapers, radio stations, and billboards that market primarily to only one section of the population.



II. FAIR HOUSING ENFORCEMENT OVERVIEW

- COMPLAINT INTAKE
- DETERMINATION OF JURISDICTION
- INVESTIGATE ALLEGATIONS
- ATTEMPT VOLUNTARY SETTLEMENT
- TESTING
- PROMPT JUDICIAL ACTION
- INVESTIGATION REVIEW
- FINDINGS



A. COMPLAINT INTAKE

- **WRITTEN ALLEGATION:**
 - Identification of parties;
 - Statement of allegations;
 - Date of alleged violation; and,
 - Signed and verified by person filing.



B. DETERMINATION OF JURISDICTION

- **Is a right to housing impacted?**
- **Did the incident occur in Indiana or is the property located in Indiana?**
- **Do any exemptions apply?**
 - **Fewer than 4 units/properties;**
 - **Religious organization; or**
 - **Private club.**
- **Filed within 1 year under Indiana Fair Housing Act.**
- **180 days under Indiana Civil Rights Law.**



C. INVESTIGATIONS

(Respondent Documents)

- **Copies of policy/procedure manuals;**
- **Copies of leases;**
- **Copies of tenant warnings;**
- **Copies of evictions threatened/filed;**
- **Copies of rental or mortgage applications;**
- **Copies of credit reports; and,**
- **Copies of listing agreements and/or purchase offers.**



INVESTIGATIONS

(Complainant Documents)

- **Verification of disability;**
- **Photos;**
- **Copies of warnings/notices received;**
- **Copies of rent receipts;**
- **Copies of leases;**
- **Copies of tenant rules received; and,**
- **Copies of purchase offers.**



INVESTIGATIONS

(Interviews)

- **Complainant and other residents;**
- **Respondent, owner, property manager, maintenance people and other employees;**
- **Neighbors; and,**
- **Witnesses identified by parties.**

INVESTIGATIONS

(On-Site Visits)

- **Photos;**
- **Measurements:**
 - Unit size/configuration
 - Disability modification
- **Interviews; and,**
- **Evaluate facility:**
 - Physical structure
 - Neighborhood



INVESTIGATIONS



- **SUBPOENA POWER:**
 - ICRC has authority to issue subpoenas.
 - ICRC has authority to enforce subpoenas in court.
- **DEFAULT JUDGMENT:**
 - ICRC has authority to request default judgment for failure to answer or otherwise defend complaint.

D. ALTERNATIVE DISPUTE RESOLUTION

- **Simultaneous with investigation;**
- **In-House ADR facilitators;**
- **Opportunity for parties to maintain some control over outcome;**
- **Evidence obtained during ADR proceeding is not available as evidence in investigation; and,**
- **Unique settlements may be drafted.**

E. TESTING

- **Trained testers pose as prospective tenants/buyers.**
- **Testers are trained by the ICRC.**
- **ICRC personnel oversee actual tests.**
- **Testers are unaware of reason for test.**
- **Testing is valid evidence in court.**
- **Tests reveal discrimination.**
- **Tests reveal unfounded complaints.**



F. PROMPT JUDICIAL ACTION

- **Temporary restraining orders.**
- **Preliminary injunctions:**
 - **Stop eviction proceeding**
 - **Stop sale/rental**
- **Primary purpose is to preserve status quo.**



G. INVESTIGATION REVIEW

- **Three stages of review for investigation completeness.**
- **To protect complainant from discrimination.**
- **To protect respondent from unwarranted litigation.**



H. FINDINGS

- **Made by Executive Director.**
- **Probable Cause.**
- **No Probable Cause.**
- **Administrative Closures.**



POST FINDINGS PRACTICE

- **No Probable Cause:**
 - **Appeal within 15 days to ICRC seven member commission.**
 - **Reverse, sustain or remand for further investigation.**
- **Probable Cause:**
 - **Either party may elect to go to State Court.**
 - **If neither party elects, Commission will schedule an administrative hearing.**

POST FINDINGS PRACTICE

(continued)

- **Damages**
 - **Administrative Forum**
 - **Actual damages (out of pocket expenses and emotional distress)**
 - **Attorneys fees**
 - **Court costs**
 - **Civil penalties**
 - **Injunctive or equitable relief**
 - **Permanent equitable relief (monitoring by the ICRC to prevent future discrimination)**

POST FINDINGS PRACTICE

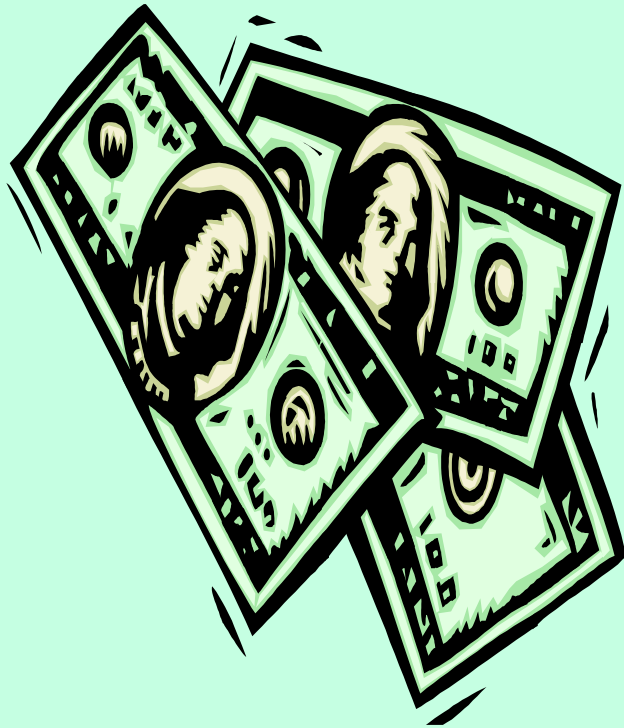
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– State Court

- Actual damages (out of pocket expenses and emotional distress)
- Attorneys Fees
- Court costs
- Punitive damages (punishment for wanton and willful acts)
- Injunctive or equitable relief



CIVIL PENALTIES



- **\$10,000.00 – 1st offense.**
- **\$25,000.00 – 2nd offense (within 5 years).**
- **\$50,000.00 – 3rd offense (within 7 years).**
- **Suspension of Professional License.**

WHAT CAN YOU DO?

- **Learn the law.**
- **Train your staff based upon the law.**
- **Develop policies consistent with the law.**
- **Insist upon consistency in following your policies.**
- **Advocate diversity.**



III. POLICY & PROCEDURE

➤ **FOR EMPLOYEES**

- **New employee training program.**
- **Written customer service expectations:**
 - **Time frame for return phone calls**
 - **Complaint processing procedures**
- **Written resident qualification procedure:**
 - **Application process**
 - **Unit assignment**
 - **Waiting list procedures**
- **Disciplinary procedure for policy violation.**
- **Acknowledge of receipt and understanding of Fair Housing Training/Policy.**



➤ **FOR TENANTS**

- **Written maintenance procedures.**
- **Written rules for services provided.**
- **Written facilities rules and regulations.**
- **Written policy for the request of modifications and accommodations for people with disabilities.**

➤ FOR OWNER, MANAGER AND EMPLOYEE

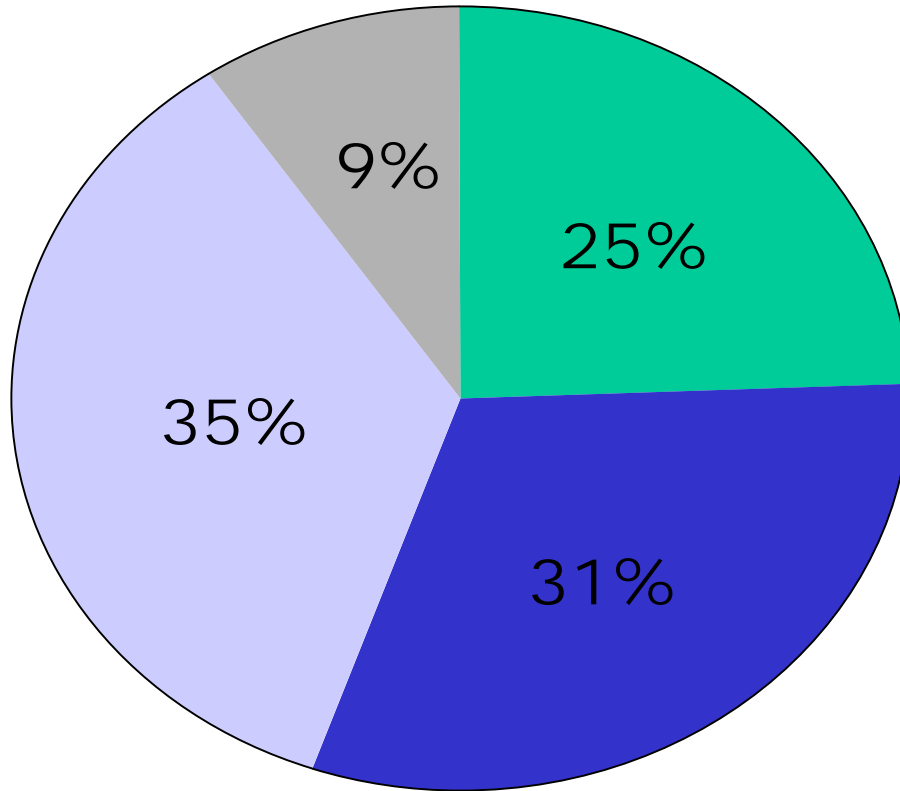
- Develop method of recording ALL activity.
- Develop record retention schedule.



REMEMBER:
IF IT IS NOT
DOCUMENTED
IT IS ONLY A
RUMOR!

ICRC 2000 CASE STATISTICAL REPORT


REAL ESTATE UNIT



 **Meditation (23)**

 **Administrative
Closures (29)**

 **No Probable
Cause (33)**

 **Probable
Cause (9)**

TOTAL ANNUAL INTAKE: 114

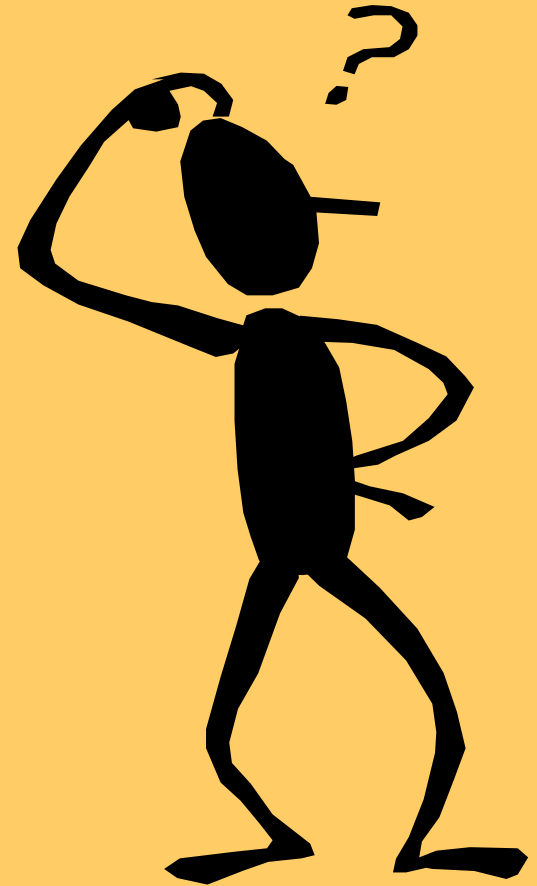
TOTAL ANNUAL DISPOSITIONS: 94

Indiana Fair Housing Task Force



WHAT IS THE TASK FORCE?

- **The Indiana Fair Housing Task Force is an advisory council comprised of fair housing advocates.**
- **Organizations on the Task Force include disability advocates, banks, housing providers, consumer and tenant groups and social service organizations.**
- **Task Force members help plan the Annual Fair Housing Summit, assist in other sponsored projects and activities and educate the general public on fair housing laws.**



MISSION STATEMENT

- **To educate housing providers, consumers and organizations involved in housing of their respective rights and responsibilities.**
- **Offer new perspectives in combating housing discrimination.**
- **Provide networks for coordinating education and outreach initiatives across the State of Indiana.**

QUESTIONS OR CONCERNS??

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